

United States District Court  
District of Oregon

07 AUG '20 08:20 REC'D USDC-ORP

A.B. et al.

v.

Andrew Kowalczyk  
Defendant.

Case No: 3:19-CV-01521-MO

Motion to Recuse

Judge Mosman.

Declaration in Support.

I declare:

Defendant Andrew Kowalczyk hereby Moves for recusal of Judge Michael Mosman in the above case, under both recusal statutes. Do to no access to legal material and law library the exact statutes and supporting case law cannot be obtained and used therein. (Possibly under <sup>U.S.C.</sup> 145 and 475).

An appearance of bias and/or ~~prejudice~~ prejudice and/or non-impartial judge is evident. Further, a long history of favoritism and incorrect adverse rulings against Defendant involving plaintiffs have occur by Mosman

for over 8 years now in case 3:18-CR-0095-MO. In the criminal case Mosman has violated Defendant Kowalczyk's rights and rules severely and habitually. Defendant cannot receive a fair and impartial pre-trial-trial in this civil case with Mosman as

the judge. Defendant hereby incorporates all recusal motions filed on Mosman in the above criminal case (two). Further, incorporates the whole record from criminal case that shows nothing but denials of ~~recusal~~ motions etc. towards Defendant

in favor of the above parties and government.

1 of 8 recusal



In this current civil case Defendant was never served summons/complaint and has sent mail notifying this judge and clerk so. Defendant has mailed and submitted to this court at least 6 separate motions-requests for subpoenas to ~~be~~ serve on BOP - Sheridan to obtain records Defendant states prove Defendant was never served personally as the Yamhill county sheriff claims and plaintiff's attorney — has notified court records exist. These are medical records etc. that the plaintiff has no access to and cannot disclose to Defendant! Defendant has sent these <sup>at least</sup> 6 requests over the past 6-7 months to this court. Mosman has a history of not accepting and docketing Defendant's ~~prove~~ submissions and that is believed to be occurring in this case again.

Since Defendant has not received no complaint and summons, he could never write a response nor research ways for any defense or summary judgement, nor dispute any facts, make needed discovery requests to do so ect. This is yet another railroading by Mosman. Defendant has constantly notified the court that he is experiencing a "denial of access to courts" and "cruel and unusual punishment", Constitutional rights violations at the Prison USP Tucson, this is largely do to judge Mosmans 2 bogus rulings against Defendant in above



criminal case. Where Mosman denied the rule 38b motion, continuances, expert funds, held no evidentiary hearing for the over 75 objections to PSR at sentencing (not grant a continuance for it too) and adopted the extreme false PSR and severe inflammatory content. Mosman <sup>at sentencing hearing</sup> refused to consider any of defendant's medical needs and correction care ~~as~~ as required when sentenced! Causing Defendant to go to a dangerous USP in BOP and get barely any medical treatment - ~~mental~~ care, mental health medication - treatment, disability accommodations etc. needed! All of Defendant claimed to occur in Defendant Rule 38b motion has occurred and in many cases even worse! Defendant has spent 70% of his time in SHU, had virtually no phone access, no email access, extreme problems with not getting mail and others receiving, no access to law library, no access to legal material, stripped of needed mental health meds, no needed handicap accommodations, stranded without a wheelchair, extreme harassment by staff due to inflammatory content in PSR and much more. Defendant's family has had to pay over \$25,000 in civil rights attorneys to try and solve problems, with little results. An emergency TRO is being filed to stop some of the extreme cruel and unusual and due process violations occurring past/currently. Because Mosman

3 Recusal



denied Defendant's motion to stay at Multi-Co jail after trial and approved Defendant to go to Sheridan per marshals request, he was given complete fraudulent mental health screening at intake that lowered his care level to a 2 and caused him not to go to needed F.M.C. Because Mosman ~~refused~~ ~~the~~ ~~refused~~ refused to rule on the later Prose injunction to be removed from Sheridan and later motions not to be ever housed there, after sentencing Defendant was illegally taken to Sheridan and severely retaliated on, thrown in suicide watch illegally and stripped of all legal materials, given no food/water for 5 days. Multi-Co health only approved marshals to airlift Defendant to designated BOP, the marshals lied to Multi-Co and took Defendant to BOP Sheridan and drove him in a van, severely abusing him on the drive! Sheridan then withheld all legal material and labeled it "personal property", put it all in disarray and lost 1/3 or more of the most important material saved of 17 years of work, irreplaceable documents! These marshals work in Mosman's court room and is believed to conspire with Mosman to continue to violate rights, torture, and cause to lose the appeal against Mosman. The following



is a incomplete summary of illegal things Mosman has done to the defendant in past. Mosman viewed over 100 inflammatory child porn pictures he believes Defendant partook in and is extremely hostile towards defendant over this type of crime, Defendant moved verbally to recuse Mosman at sentencing do to prosecutors verified statement quote of Mosman, that people who produce child pornography belong in the "inner rings of hell", and "kills the soul" of ~~the~~ humans Mosman stated. Noteworthy below is Mosman's refusal to file prose material Defendant submitted after illegally forcing Defendant to be Prose (as 9<sup>th</sup> Circuit found in interlocutory appeal!), what type of fair, non bias, non prejudiced, non playing favorites against Defendant, impartial judge does that!? Mosman Denied all motions of Defendants that had any substance, 95% of all motions!

In chronological order, starting 2012:

- ① Mosman ordered I not be able to speak to any other attorney or investigator regarding the criminal case
- ② Forced me to be Prose illegally - falsely stating I was delaying case ~~in~~ with bad/unjust motives of not able to working with attorney - The 9<sup>th</sup> Circuit found this in interlocutory appeal.
- ③ Then forced me to represent my self and competency hearing and after being



found incompetent.

- ④ Then kept me prose, violating precedent and statutes and was aware he was doing so.
- ⑤ While forced Prose Mosman refused to accept and docket all my Prose Filings, the 9th Cir. had to order Mosman to do so, an order he violated in 2019.
- ⑥ After 9th Cir. found I was not intentionally delaying case in bad faith, Mosman stated I was and used the bogus rational to deny continuance and other important motions.
- ⑦ Mosman was also forced by 9th Cir. to appoint me an attorney as he illegally forced me prose for ~~10~~ years.
- ⑧ Mosman through out good testimony of expert that cost many tens of thousands with no valid justification, falsely discrediting expert in order to find me competent.
- ⑨ Mosman held force motion to substitute attorney hearings, several, and would not let me speak and present evidence at the hearings to show the relationship was in conflict and bad.
- ⑩ Falsely denied renewed suppression motions that should have been granted.
- ⑪ Gave a highly fraudulent verbal competency finding opinion, e.g. stated my psychologist Dr. Goldmas stated I was currently malingering. Attorney Mr. Sepp submitted signed statement from Dr. Goldman that Mosman falsely stated his testimony.



in opinion, this again was used to find me competent and read me into conviction.

(12) Let me wear jail clothes at beginning of trial

(13) Denied Rule 41g motion for no reason, government's interests could be met, thus requiring return of property needed for sentencing and 2255 motion. Morrison habitually obstructs ability to fight my case.

(13) Did not follow any of the forfeiture rules - proceedings under Rule 32.2, was motioned to do so several times and refused to

(14) Falsely denied very valid continuance for sentencing - violating my rights

(15) Falsely denied valid fund requests for experts for sentencing

(16) Illegally disclosed PSR to victim, disobeying 9<sup>th</sup> Cir. precedent, granted disclosure with no specific reasons as required

(17) In retaliation denied a very expensive Rule 38b motion ~~on~~ a hour after notified a Writ of Mandamus was filed in dispute of Morrison's false ruling. Which has prevented me access to courts to work on appeal.

(18) Did nothing about the 75 plus unresolved objections to PSR as required by law to do at sentencing. Held no evidentiary hearing regarding ~~my~~ Defendant's objections at sentencing, but



This Court is denying me all process, continuances, etc. based on its prejudiced/bias false beliefs, I'm not truth teller, creditable, delay case in bad faith, and creates unfair case here! Must refuse - Court falsely found me to be dangerous = not fair <sup>Prose here!</sup>

adopted all 75 false and extremely inflammatory statements in PSR, which has cause defendant to be extremely abused and rights violated by BOP inmates, wrong placement and dangerous USP, no needed medical, no mental health care, no handicap accommodations, deny of access to courts in SFTU and no ability to communicate to others on outside of prison etc.

(19) Never put order as previous judge did not to go to Sheridan, in fact approved going to Sheridan, with out asking my attorney nor me, conspiring with Marshals and BOP to do a bunch of very corrupt things, e.g. falsifying mental and medical records so I get no continuance case which diverts me from working on case, held me in suicide watch when not suicidal where an attempt to kill me by staff occurred by no food water and forced with draw of medications that could kill me.

(20) Gave me 270 years which law states I'm to get no more time the necessary - shows extreme - harsh bias in rulings to me!

I have not been able to complete this recanted as needed, I have no access to legal material of mine, law library etc. I asked for stay/continuance to do so. There is behind appearance of unfairness to public by judge Musmann and bias etc. This was done from memory only. I declare the above is true and correct under penalty of perjury of U.S. laws.

Soft refusal

6/30/20  
Date

Andrew K...  
Perse

21) ordered legal assistance to furnish all money in BOP account before release so I have no \$!